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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Final report to the Commission on Human Rights on the situation of human rights in El Salvador, prepared by Mr. José Antonio Pastor Ridruejo, in pursuance of the mandate conferred by Commission resolution 1990/77

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INTRODUCTION

1. This report has been prepared pursuant to Commission on Human Rights resolution 1990/77 and Economic and Social Council decision 1990/242 of 25 May 1990. It refers to the situation of human rights in El Salvador in 1990, although it must obviously be read in the light of the reports submitted by the Special Representative since 1981. The Special Representative is grateful for the co-operation extended to him in discharging his mandate by the Government of El Salvador and other Governments, by the Frente Farabundo Martí para la Liberacion Nacional (Farabundo Martí National Liberation Front - FMLN), international and non-governmental organizations and other individuals and institutions.

2. By letter of 28 June 1990, the Special Representative told the Government of El Salavdor that he would like to visit the country between 22 and 30 September 1990. The Government finally granted permission for the visit to take place between 30 September and 7 October.

3. During his stay in El Salvador, the Special Representative had an opportunity to meet with the Constitutional President of the Republic, Mr. Alfredo Cristiani, with senior authorities and officials of other branches of Government and with chiefs and officers of the armed forces and security forces. At the headquarters of the Archdiocesan Legal Protection Office (Tutela Legal del Arzobispado), he interviewed numerous witnesses brought forward by the latter and by other non-governmental humanitarian organizations and received extensive oral and written information from those organizations and from peasant and trade union movements. He held meetings with independent individuals and, lastly, visited Santa Ana Prison where he was able to talk confidentially to political prisoners of various ideologies. The Special Representative also interviewed representatives of FMLN outside the country. Since the submission of his preliminary report to the General Assembly, the Special Representative has continued to receive large amounts of oral and written information from all types of sources.

I. OVERALL POLITICAL SITUATION

4. The armed conflict between the regular armed forces and FMLN guerrilla organizations continued in El Salvador throughout 1990, leaving a trail of blood, violence and destruction. In autumn 1990, the FMLN guerrilla forces launched a number of offensives throughout the country, although not on the same scale as the all-out offensive of autumn 1989. FMLN justified these offensives as means of compelling the armed forces and the Government to negotiate seriously. The Special Representative can not but express his concern at the increase in military violence, which unfortunately always leads to human rights violations. It should be noted, however, that the 1989 all-out offensive did not hinder the resumption and intensification of the negotiating process now taking place under the auspices of the United Nations Secretary-General.

5. In fact, the negotiation process which took place between the Government of El Salavdor and FMLN in 1989 was suspended without having produced any concrete agreement at the meetings held in Mexico in September and in Costa Rica in October. The third meeting, scheduled for November in Venezuela,

was cancelled as a result of the attack on the offices of FENASTRAS and the subsequent all-out offensive launched by FMLN. Despite the desire for peace expressed by the vast majority of the Salvadorian people, 1990 began without a dialogue between the parties to the conflict.

6. On 31 January 1990, President Cristiani met with the Secretary-General of the United Nations, Javier Pérez de Cuéllar, in New York. During that meeting, President Cristiani asked the Secretary-General to use his good offices to persuade FMLN to agree to the initiation of talks with the Government under the terms of the Peace Plan for Central America adopted by the Central American Presidents in Esquipulas. 1/ The Secretary-General agreed. 2/ Subsequently, the United States Secretary of State, James Baker, and the then Soviet Minister for Foreign Affairs, Eduard Shevardnadze, issued a joint statement on 10 February 1990 in Moscow, expressing the firm support of both States for a peaceful settlement of the conflict in El Salvador and their backing for the Secretary-General's efforts to secure a permanent cease-fire and the resumption of negotiations between the Government and the guerrilla forces. 3/

7. On 13 March 1990, FMLN declared the total suspension of acts of sabotage against public transport, commercial establishments and telephone lines and attacks on Government officials and civilians who are not members of military or paramilitary groups belonging to the armed forces of El Salvador, 4/ as a gesture aimed at the resumption of the peace negotiations.

8. Accordingly, on 4 April 1990, the Secretary-General of the United Nations, Javier Pérez de Cuéllar, met at the European headquarters of the United Nations in Geneva with a Government delegation headed by the Minister of Justice, Oscar Santamaría, and comprising three ambassadors accredited to European countries, and an FMLN delegation composed of Commanders Jorge Shafik Handal, Ana Guadalupe Martínez and Roberto Cañas. The Secretary-General had intervened at the request of the Central American Presidents and within the framework of the mission of good offices entrusted to him by the Security Council in its resolution 637 (1989). The Secretary-General agreed to perform this task at the request of the Government and FMLN in return for assurances by the parties that they would come to the negotiating table in good faith and with the genuine intention of achieving peace.

9. On 4 April 1990, the parties signed an agreement on the format, mechanics and pace of the negotiating process. That same day, the Representative of the Secretary-General, Alvaro de Soto, reached agreement with the head of the Government delegation, Oscar Santamaría, and the head of the FMLN delegation, Jorge Shafik Handal, on the immediate initiation of a period of preparation and reflection, and of consultations with the Representative of the Secretary-General, with a view to laying the foundations for the holding of direct talks.

10. The schedule of the negotiating process was worked out at a meeting held between the two parties and the Representative of the Secretary-General in Caracas, Venezuela, on 21 May 1990.

11. The second round of negotiations under United Nations auspices was held from 19 to 25 June 1990 in Oaxtepec, State of Morelos, Mexico, according to the procedures established by the Geneva Agreement of 4 April. According to a communiqué issued by the United Nations, the parties discussed in detail and in depth topics relating to the first two items on the agenda, namely, the armed forces and human rights. The Government apparently proposed the restructuring of the army, while FMLN proposed that the army should be purged and its troop strength reduced and that it should be placed entirely under civilian control. 5/ FMLN reportedly also insisted that paramilitary groups, civil defence forces and the so-called "death squads" should be disbanded, that a single police force should be established under civilian control and that penalties should be imposed against military personnel implicated in human rights violations, especially in the most important cases, such as the assassination of Archbishop Romero, the murders of the Jesuit priests at the Central American University and the attack on the offices of FENASTRAS, as well as in cases of corruption. 6/

12. According to an Associated Press dispatch of 26 June 1990, both parties agreed that a commission should be set up to verify the situation of human rights in El Salvador, with one basic difference, however: the Government wanted a governmental organization supervised and advised by the United Nations; FMLN wanted a United Nations commission. The difference was resolved during the third round of negotiations, held in San José, Costa Rica, from 20 to 26 July 1990, when the first substantive agreement between the parties was adopted: the Agreement on Human Rights, which will be analysed in chapter V of the present report.

13. The fourth round of negotiations took place in San José, Costa Rica, from 17 to 22 August 1990 and apparently dealt with the first item on the agenda worked out in Caracas on 21 May: the armed forces. Owing to the complexity of the issues included under this item, it was apparently impossible to reach any agreement other than one to meet again in order to concentrate on discussing the item.

14. The fifth round of negotiations took place in San José, Costa Rica, and ended on 18 September 1990. The subject of the army was again discussed, but no substantial agreement could be reached.

15. However, it should be noted that, on 19 September 1990, an electoral agreement was signed in El Salvador between all the political parties, including the three left-wing parties. While this agreement was worked out by an inter-party commission appointed for the purpose, its signing was made possible largely by the ongoing negotiating process and the consent of the two parties to the conflict.

16. In the following months of 1990, the negotiating process was virtually at a standstill.

17. During his stay in El Salvador, the Special Representative received further proof of the deep-seated desire of the Salvadorian people to see the negotiations lead once and for all to an early settlement of the conflict. This is a sensible desire which the Special Representative shares fully, for he is convinced that the cessation of the conflict between the armed forces

and FMLN is an indispensable requirement for ensuring respect for human rights. An early, favourable outcome to the current negotiations is of primary importance for the elimination of human rights violations in El Salvador.

18. The Special Representative also believes that a reduction of violence in combat and non-combat situations will help to promote mutual confidence-building, thereby facilitating an early, successful outcome to the negotiations. From the human rights point of view, it is inadmissible that the increase in violence should become a basis for the negotiations.

19. In another area, the Special Representative notes that, on 1 April 1990, the Legislative Assembly chose not to renew the state of siege which it had proclaimed on the occasion of the FMLN all-out offensive in November 1989. 7/

20. Among the changes in high-ranking officials which took place in El Salvador in 1990, it should be recalled that, in early June, the Legislative Assembly appointed Mr. Roberto Mendoza as Attorney-General of the Republic 8/ and that, on 1 September, Colonel René Emilio Ponce, who until then had occupied the post of Armed Forces Chief of Staff, was appointed Minister of Defence. 9/

II. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

21. According to reports received by the Special Representative from various sources on the country's economic situation, which for reasons of space will not be reproduced in detail, the factors which have resulted in an increasingly alarming deterioration in the living conditions of the vast majority of Salvadorian citizens persisted throughout 1990. One major factor was the continuation of the armed conflict. According to authoritative independent sources, consumer prices increased by 25 per cent in the past year, without a corresponding rise in wage levels. There has thus been a drop in the already weak purchasing power of Salvadorian citizens.

22. The Special Representative continued to receive many reports from various sources concerning Government harassment of trade unions and co-operatives. Such harassment allegedly included, on some occasions, arrests for longer periods than permitted under the Constitution, ill-treatment, and even summary executions and disappearances. These matters will be discussed in the appropriate section of this report.

23. Twenty-one members of the Confederación de la Reforma Agraria Salvadoreña (Salvadorian Agrarian Reform Confederation - CONFRAS) were allegedly detained by the authorities on charges of environmental destruction. It was also reported that a leader of the so-called Alianza Democrática Campesina (Peasant Democratic Alliance) disappeared on 27 March. 10/

24. The Special Representative received reports that, in late April 1990, the armed forces harassed many families in resettled villages in the north and east of the country so that they would leave their land again. 11/ In meetings held in El Salvador with various organizations from those villages, the Special Representative again heard complaints of constant Government harassment, particularly with respect to the villagers' lack of papers which prevents them from travelling and registering to vote, and of action by the armed forces to prevent them from receiving food and health care. The

Special Representative referred the complaints to the competent authorities of the Ministry of the Interior and was told that the villagers had no papers because, in the areas in question, FMLN had burned down the town halls, destroying registers of births, deaths and marriages. Those authorities also told him that the Government was initiating steps to provide such people with the necessary papers, either by applying the law or by preparing amendments to it as needed. Ministry of the Interior officials also said that, on 15 May 1990, FMLN stole food that was being sent to resettled villages by CONADES, a Government organization, kidnapping 26 relief workers, who were later released. Lastly, the Special Representative was informed that the Government had established a returnee assistance office.

25. The Special Representative continued to receive information about harassment of religious organizations and workers by the authorities. The auxiliary Bishop of San Salvador complained about such harassment in his sermon on 28 January 1990. 12/ The Special Representative also received reports of other harassment of priests, monks and nuns. On 20 May, the auxiliary Bishop of San Salvador reported the abduction of an Italian priest and a lay worker by paramilitary forces; both were released the day after their capture, after having been interrogated. 13/ It was also reported that, on 2 June, unknown assailants raided the premises of a women's religious community. 14/ The Lutheran Church complained that its premises had been raided by the armed forces, its Bishop threatened and its members arrested. 15/ In addition, warning shots were fired at a car belonging to a Jesuit priest travelling to a rural community.

26. With respect to trade union activity, the armed forces of El Salvador 16/ maintain that, since January 1990, there has been an intensification of such activity and that it is politically motivated, since unions are demanding social benefits or wage increases that the Government and the private sector are unable to grant. The alleged intention is political destabilization to help FMLN. Whatever the reason, the Special Representative wishes to recall that Government action must be in keeping with the Constitution and the law and must scrupulously respect human rights.

27. On the night of 3 July, the premises of the Movimiento Popular Social Christiano (Popular Social Christian Movement), one of the parties of the left-wing coalition Democratic Convergence, were allegedly attacked by an armed group in civilian clothing. 17/

28. On 21 April 1990, El Salvador University lecturer Randrejo Tejeda died of injuries sustained when a bomb planted in his car exploded. The University spokesman said that the attack formed part of the campaign of psychological warfare unleashed against the University by the military and the extreme right wing. 18/

29. With regard to the agrarian reform process, the Special Representative received reports that, in May 1990, spokesmen for the Unión Campesina Salvadoreña (Salvadorian Peasant Union) reported an eviction threat against 23 families at a co-operative in Ahuachapán. It should, in any case, be mentioned that the eviction had been ordered by the police. 19/ The Special Representative learned that the eviction eventually took place in August. 20/ In San Salvador, representatives of peasant organizations told the Special Representative that the authorities were trying to obstruct

the agrarian reform by carrying out evictions, parcelling out land and denying credit to the less compliant organizations. According to the documentation submitted to the Special Representative by Financiera Nacional de Tierras Agrícolas (FINATA), however, between June 1989 and September 1990, 16,113 title deeds were awarded under Decree 207. The same documentation none the less acknowledges that evictions occurred between the dates mentioned; for reasons that had nothing to do with FINATA: the former owner's refusal to comply with the law, intense fighting in certain specific areas, threats by former owners against peasants, transfer to third parties and others. FINATA claimed to be taking action to prevent evictions.

30. In the reports that he has been submitting since 1981, the Special Representative has described the persistent, systematic attacks by FMLN guerrilla organizations against the country's economic infrastructure, attacks which he understands, have seriously undermined the present and future enjoyment of important economic, social and cultural rights by Salvadorian citizens. In 1990, it should be recalled that, on 13 March, FMLN decreed a partial suspension of certain measures, including acts of sabotage against public transport vehicles, commercial establishments and telephone lines. As far as the Special Representative knows, since then and until November, there were no guerrilla attacks on public transport (the so-called traffic stoppages) or on commercial establishments. The Special Representative has nevertheless received reports that, in November 1990, FMLN destroyed means of transport and communications.

31. The FMLN organizations have persisted in their sabotage of the country's electrical infrastructure. According to the local press, 21/ FMLN commandos blew up an electricity pole on 2 July in Calle San Antonio Abad in the capital city, while the Comisión Ejecutiva Hidroeléctrica del Río Lempa reported an FMLN attack on a substation near the city of San Miguel which caused damage amounting to 9,500,000 colones. The explosion of a device on an electric pylon at Colonia Ferrocarril in the capital city killed one person and wounded several others. 22/ On the night of 30 July, FMLN destroyed eight electric pylons, reducing energy reception in the country by roughly 30 per cent. 23/ Lastly, on 13 and 14 August, FMLN carried out a major act of sabotage against the country's electric power system, destroying numerous pylons and causing a 45 per cent electric power deficit. 24/ On the night of 19 August, six electric power structures were blown up in various parts of San Salvador, causing material damage to a number of private dwellings.

32. Information made available after the submission of the preliminary report to the General Assembly indicates that, on 1 November 1990, FMLN set fire to the San Nicolás textile factory in Quezaltepeque, La Libertad Department. On 7 November 1990, explosive devices thrown by FMLN destroyed electricity and telephone installations in the capital city and, on the same day, a truck carrying coffee in Santa Ana. 25/ Government information states that, on Saturday, 10 November 1990, FMLN set fire to a bus in service in the capital city of the country. 26/ Information from the Armed Forces' Press Committee 27/ indicates that, on 26 November, FMLN destroyed machinery and equipment at the San Ambrosio coffee plantation in Usulután Department and took away 4,000 bags of coffee that were ready to be exported. The same source reports that, on 13 December, members of FMLN set fire to the library of the Cultural Centre and to a transformer at the electricity plant in the town of Osicala, Morazán.

III. CIVIL AND POLITICAL RIGHTS

A. Summary executions

33. Throughout 1990, the Special Representative continued to receive information from many sources on politically motivated summary executions, equivalent to murders, of non-combatants. As in previous reports, he wishes to draw attention to the difficulty of determining the exact number of such crimes. He cannot affirm that the figures below are accurate, since it is not easy to investigate matters and figures differ according to the source. He therefore advises extreme caution and circumspection in interpreting them.

34. The figures reproduced below, with comparative tables for 1989, are those supplied by the Archdiocesan Legal Protection Office 28/ and the Salvadorian Human Rights Commission (governmental) for summary executions attributed to members of the army, security forces and civil defence:

Politically motivated summary executions of non-combatants attributed to members of the army, security forces and civil defence

	(Source: Legal Protection)		(Source: Human Rights Commission (governmental))	
	1989	1990	1989	1990
January	7	1	8	6
Feburary	13	7	6	2
March	17	6	24	7
April	2	4	5	2
May	0	7	4	4
June	1	9	6	7
July	5	8	8	10
August	6	3	7	4
September	1	5	0	-
October	1	1	1	-
November	10	1	13	-
December	6	5	11	-
Total	69	57	93	-

35. With respect to these summary executions, the Special Representative also received information about specific incidents which are no doubt included in the figures given above. Some of these incidents are detailed below, on the clear understanding that the report is selective and not exhaustive.

36. On 2 February 1990, soldiers of the Atlacatl battalion arrested Julián Rosales López, 42 years old, a carpenter by trade, in the village of San José Cortez in San Salvador Department. On 8 February, his family reported that Mr. López had died in prison. They also reported that, according to the autopsy, death was caused by intense torture. 29/

37. On 6 February, members of the Treasury Police allegedly arrested, tortured and killed three women from the resettled village of Santa Marta. 30/

38. On 10 March, the Auxiliary Bishop of San Salvador reported the rape of an 18 year-old girl and the murder of her father by members of a civil defence unit. The incident occurred at Colonia Florencia, Cuscatancingo. 31/

39. On 20 March 1990, a SOICSCES trade unionist was murdered by persons wearing plain clothes who identified themselves as members of the armed forces. 32/

40. On 22 June 1990 on the Pasarena estate, San Salvador Department, members of the armed forces killed two peasants, one of them a member of the Corporación de Comunidades de Cooperación y Seguridad (Corporation of Communities for Co-operation and Security - CORDECOM). According to the information source, 33/ the army explained that the two men were subversives killed in combat.

41. A witness told the Special Representative that, on 23 July 1990, uniformed soldiers shot to death her mentally retarded son, aged 22 years. The incident took place in Apopa district, San Salvador Department.

42. Another witness questioned by the Special Representative said that, on 10 September 1990, members of the army captured his son, aged 16 years, who was an FMLN combatant; his son's corpse, bearing clear signs of torture, was found the following day.

43. Another witness told the Special Representative that, on 13 September 1990, a member of his family was fired at by members of the civil defence when he was about to enter his house; he died the following day from his wounds.

44. Although it is not a case of summary execution, the Special Representative wishes to report that, according to the statement of one witness, on 8 July 1990, three members of the army entered her house, where, after beating and tying up her husband, they repeatedly raped her in the presence of her nine-year-old daughter; the soldiers threatened to kill the witness if she reported the incident.

45. On 21 October 1990, armed persons in civilian clothing are said to have killed a schoolteacher, Vilma Chávez, in the village of Lourdes, La Libertad Department. 34/

46. At 5.30 p.m. on 13 November 1990, naval units reportedly opened fire in Comunidad La Lima, La Libertad Department, killing Mr. Cisto Ayala and wounding three other civilians. 35/

47. The Special Representative continued to receive a great deal of information about politically motivated summary executions attributable to the so-called "death squads". According to the information sources, these squads have ties with, or are tolerated or protected by, members of the armed forces and security forces. In theory, this allegation seems plausible, although the Special Representative must point out that the circumstances in which the death squads operate do not exactly make it easy to investigate the incidents attributed to them. It certainly cannot be ruled out that their activities provide a cover for ordinary offences. In any event, Legal Protection attributes the following summary executions in 1990 to the "death squads". For the purposes of comparison, the corresponding figures for 1989 are also given.

Politically motivated summary executions attributable to the so-called "death squads"

(Source: Legal Protection)

	1989	1990
January	2	9
February	4	4
March	3	8
April	2	8
May	4	3
June	0	5
July	0	8
August	2	6
September	2	0
October	4	0
November	0	1
December	3	0
Total	26	52

48. With regard to summary executions attributed to members of the civil defence, the Special Representative wishes to reiterate the concern which the Salvadorian Human Rights Commission (governmental) expressed in July 1990 to the Armed Forces General Staff. The Commission said: "With truly alarming frequency, members of civil defence units in various parts of the country have been involved in serious acts of murder, robbery, assault, rape and abuse of authority, keeping the population in a permanent state of fear and insecurity. In view of this situation, the Commission ... considers it a matter of urgency to bring to the notice of the said authorities this concern which has already become a general outcry". 36/ The Armed Forces General Staff admitted to the Special Representative that elements of the civil defence commit abuses, to which it intends to put an end.

49. Some members of trade union and peasant movements showed the Special Representative, with considerable concern, duplicated lists indicating their names and their alleged ties with FMLN. These lists had been widely distributed and, according to the individuals in question, formed part of a campaign of psychological warfare designed to intimidate and terrify them. The lists were viewed as death threats and as serious violations of human rights.

50. Bearing in mind the need for circumspection referred to earlier and taking into account all the information to which the Special Representative has had access, it must be concluded that the practice of summary executions by elements of the State apparatus, in particular members of the armed forces, persisted in 1990, although it is necessary to add the important point that the number of this kind of violation of human rights was lower than in 1989. This conclusion is also borne out by thoroughly reliable independent sources. The Special Representative notes in any event the existence of an atmosphere of intimidation among specific sectors of the population - members of trade union and peasant movements - who claim to be exposed to the worst reprisals.

51. The Special Representative also received a great deal of information about summary executions attributable to guerrilla organizations. According to Legal Protection and the Salvadorian Human Rights Commission (governmental), the figures are as follows:

Summary executions attributable to guerrilla organizations

	(Source: Legal Protection)		(Source: Human Rights Commission (governmental))	
	1989	1990	1989	1990
January	8	0	33	13
February	3	1	18	2
March	2	0	21	7
April	4	2	28	5
May	4	3	36	6
June	5	2	21	4
July	1	4	10	6
August	3	0	6	6
September	0	0	5	0
October	0	3	9	2
November	0	0	42	0
December	0	0	30	-
Total	30	15	259	51

52. The Special Representative also received specific information about summary executions, equivalent to murders, attributed to guerrilla organizations. This information is summarized in the following paragraphs on a selective and non-exhaustive basis.

53. According to the local Salvadorian press, 37/ one day in May 1990, members of FMLN brutally tortured and later murdered a former soldier, José Angel Sánchez, near the town of Ilobasco.

54. According to a communiqué of the Armed Forces General Staff, on 13 May 1990, members of FMLN murdered in Ilobasco district, Palacios Canton, a young man, José Angel Lemus Sánchez, who had just completed his military service in the armed forces, 38/

55. According to witnesses heard by the Special Representative, members of FMLN kidnapped and murdered as an alleged armed forces informer a peasant, José Villacorta Ramos, in the village of Tomacatepeque, San Salvador Department. The incident occurred on 30 May 1990.

56. According to witnesses heard by the Special Representative in San Salvador, on 7 June 1990, members of FMLN murdered two brothers, Pedro EEnrique Medina Alvarado and Sebas Raúl Medina Alvarado, in a canton of Santa Ana Department.

57. The local press 39/ also reproduced information from the armed forces according to which a woman, Marta Flores Beltrán, and a minor, María Elen Romero, were shot dead by an FMLN commando in Mejicanos Canton, north of San Salvador, one day in June.

58. The Salvadorian Human Rights Commission (governmental) reported to the Special Representative the murder on 9 July 1990 of Major Carlos Figueroa Morales, chief of the Legal Department of the Armed Forces General Staff. The FMLN commando "Modesto Ramírez" claimed responsibility for the murder.

59. On 17 July 1990, FMLN commandos murdered armed forces captain Ramón Aristides Reyes as he was driving his car through Santa Tecla village. Responsibility was claimed by the commandos that same day. 40/

60. Some days later, on 23 July 1990, Adalberto Rubio, the judge in La Unión Department, was murdered by FMLN members as he was preparing to alight from an inter-city bus. The victim also happened to be the father of two armed forces officers. 41/

61. According to the local press, 42/ Victor Manuel Rojas Martínez, a member of the Los Llanos de Renderos civil defence unit in Chaltepec in Santo Tomás Canton, was murdered on 30 July 1989. His neighbours had the impression that the murder was committed by members of FMLN.

62. Another San Salvador newspaper 43/ reported the murder on 30 July 1990 of Máximo Iraheta Baires, a peasant living in Cuyantepeque Canton, Cabañas Department. Eyewitnesses attributed the murder to members of FMLN.

63. The Ministry of Foreign Affairs of El Salvador 44/ reported two attacks, on the night of 27 June 1990, on Ricardo Alvarenga, President of the Legislative Assembly. He emerged unharmed, from the attacks, which were attributed to FMLN commandos, although an opposition politician 45/ disputed the allegation.

64. A Salvadorian newspaper reported on 23 August that FMLN members killed Misael Portillo, a civilian, in Jucuapa, Usulután Department. According to government information, 46/ on 25 October 1990, a cantonal commander and a private who was on leave were killed by guerrillas in Cabañas Department and in San Vicente Department. The same source says that FMLN was responsible for the deaths of José Luis Arévalo and his wife Josefina Amaya on 26 November, in Tecoluca, San Vicente Department.

65. The conclusion drawn by the Special Representative from the information reproduced in the foregoing paragraphs is that FMLN organizations also persisted in the practice of summary executions in 1990, although the number of such executions was lower than in 1989.

66. The Special Representative also received reports of some urban operations by members of FMLN which affected the civilian population. According to government information, 47/ an FMLN commando set off a car-bomb in the city of Santa Tecla on 2 April 1990. The explosion killed an armed forces officer and five civilians. Government sources 48/ also reported that, on 12 July 1990, members of FMLN threw an explosive device at a military truck on an avenue in the capital city and that a woman passer-by was injured by the fragments. That same day, at the end of 75 Avenue North in San Salvador, members of FMLN set off a device which destroyed a lamp post and injured a young woman. The same report states that, on the previous day, a device placed in another location in the capital city in order to damage the electricity supply system killed a civilian.

67. Armed Forces Press Bulletin No. 310 reports that explosive devices thrown by FMLN caused the deaths of an adolescent and a girl in San Salvador on 23 October. According to the same source, on 5 December a girl was killed by fragments from a mortar shell in Jiquilisco, Usulután Department.

B. Arrests, abductions and disappearances

68. Non-governmental organizations in San Salvador told the Special Representative that there had been numerous political arrests in 1990. Furthermore, various witnesses declared that they had been arrested themselves, although in most cases they had been released within 72 hours. Such arrests were undoubtedly occurring, but the Special Representative reaffirms his view that the Salvadorian authorities have the right to arrest people who commit violence against the constitutional order, as long as the arrest and subsequent legal proceedings are in keeping with constitutional standards and with the international human rights obligations assumed by the Republic of El Salvador.

69. The Archdiocesan Legal Protection Office provides the following statistics:

Arrests attributable to the army, security forces and civil defence

	Total persons arrested and not released		Persons arrested and currently in detention		Persons arrested who subsequently disappeared	
	1989	1990	1989	1990	1989	1990
January	21	68	12	50	9	18
February	48	65	31	54	17	11
March	28	38	25	29	3	9
April	64	38	55	23	9	15
May	28	34	24	18	4	16
June	29	34	25	30	4	4
July	66	34	61	28	5	6
August	50	5	33	4	17	1
September	49	8	39	5	10	3
October	58	13	51	11	7	2
November	108	15	90	12	18	3
December	60	3	36	3	24	0
Total	609	355	482	267	127	88

70. With regard to forced or involuntary disappearances, the Archdiocesan Legal Protection Office provides the following figures for 1990, together with the corresponding figures for 1989:

Forced or involuntary disappearances

(Source: Legal Protection)

	Total disappearances		Disappearances following arrest by the army, security forces or civil defence		Disappearances following abduction by guerrilla organizations		Disappearances where the circumstances or culprits are unknown	
	1989	1990	1989	1990	1989	1990	1989	1990
January	26	31	9	18	8	3	9	10
February	26	19	17	11	4	0	5	8
March	12	20	3	9	4	0	5	11
April	27	21	9	15	8	0	10	6
May	5	27	4	16	0	1	1	10
June	10	14	4	4	0	2	6	8
July	12	14	5	6	2	1	5	7
August	28	4	17	1	3	0	8	3
September	19	6	10	3	3	1	6	2
October	12	9	7	2	1	0	4	7
November	52	12	18	3	13	2	21	7
December	38	4	24	0	3	2	11	2
Total	267	181	127	88	49	12	80	81

71. The Special Representative wishes to draw particular attention to a very serious case of disappearance which occurred at the end of last year, but which has not been resolved to this day. According to testimony given in El Salvador to the Special Representative, on 29 December 1989, four peasants from the San Cayetano co-operative were arrested by members of the armed forces and civil defence. Since then, nothing has been heard of their whereabouts and their families assume that they have disappeared permanently. 49/ Other members of the San Cayetano co-operative have been arrested in the past by government forces and, during the first months of 1990, members of the army continued to harass the co-operative.

72. People have also been abducted by guerrilla organizations. The following figures are provided by Legal Protection and the Salvadorian Human Rights Commission (governmental):

Persons abducted or forcibly recruited by guerrilla organizations

	(Source: Legal Protection)						(Source: Human Rights Commission (governmental))	
	Total (Legal Protection)		Abductions by guerrilla organizations		Forcible recruitment by guerrilla organizations		Civilians abducted by FMLN	
	1989	1990	1989	1990	1989	1990	1989	1990
January	8	3	8	3	0	0	85	31
February	4	0	4	0	0	0	20	5
March	4	0	4	0	0	0	30	8
April	8	0	8	0	0	0	43	25
May	0	1	0	1	0	0	20	3
June	0	2	0	2	0	0	9	10
July	2	7	2	1	0	6	2	1
August	3	0	3	0	0	0	14	1
September	3	1	3	1	0	0	21	0
October	1	0	1	0	0	0	133	1
November	13	2	13	2	0	0	816	1
December	3	2	3	2	0	0	268	0
Total	49	18	49	12	0	6	1 461	86

73. With regard to alleged forcible recruitment by FMLN, the Special Representative wishes to mention a report in the local press 50/ that members of the guerrilla organization abducted around 15 pupils, including some girls, from a country school in the village of San Luis de la Reina, San Miguel Department, apparently to make them join FMLN. The Special Representative also received information on other cases of forcible recruitment of young people. A representative of FMLN emphatically denied such reports, stating that it had been the strictly observed policy of the organization for some years not to undertake this form of recruitment.

74. The Special Representative wishes to draw attention also to an abduction which occurred on 29 November 1989, but whose effects continued throughout 1990. On that date, an FMLN commando abducted five journalists from Colonia Escalón in the centre of San Salvador, namely, José Antonio Ceballos Martínez, José Alfredo Melgar, Anibal Jesus Edilberto Quijada López, Oscar Herrera and Aníbal Dubón Mejía. The Special Representative heard testimony in San Salvador from the journalists' families, who said they had no news of their whereabouts despite having made numerous approaches to FMLN through humanitarian organizations.

C. Treatment of political prisoners

75. In interviews held in El Salvador, members of various organizations, as well as political prisoners themselves, complained to the Special Representative that, in late August 1990, some of the prisoners had been taken during the night from Mariona Prison and transferred to other prisons throughout the country, where they were incarcerated with common criminals. The Special Representative is of the opinion that the transfer in itself does not constitute a violation of human rights. However, the political prisoners alleged that their nocturnal transfer was carried out amid serious threats, brutality and violence, allegations which the competent officials denied to the Special Representative. The prisoners also said that being incarcerated with common criminals was a constant source of danger.

76. The Special Representative was able to make a visit to Santa Ana Prison, where around 80 political prisoners were being held, most of them on charges of collaboration with FMLN. A small number of prisoners were former members of the armed forces and security forces, accused of or indicted for politically motivated crimes. The Special Representative was able to confirm that the political prisoners were being held with common criminals in conditions of very severe overcrowding.

77. Most of the non-governmental organizations which met with the Special Representative in El Salvador reported on widespread torture and mistreatment of political prisoners during their extrajudicial interrogation. At Santa Ana Prison, the political prisoners supplied the Special Representative with copious signed testimony alleging such practices.

78. During his visit to the country, the Special Representative questioned a fairly broad sample of former or current political prisoners. Prisoners belonging to organizations all made roughly the same complaints as in 1989: long periods of interrogation while blindfold and without being able to sit down or relieve themselves, extensive beatings, the occasional use of a hood which impedes breathing and causes fainting, immersion of the head in tanks of water, electric shocks and threats to themselves or their families. Witnesses who did not belong to organizations complained only of intense interrogation while blindfold.

79. The Special Representative has to admit that, owing to the number and nature of the witnesses he was able to question, he cannot establish precisely what percentage were subjected to torture or cruel, inhuman or degrading treatment. The practice clearly exists, but, in his opinion, is not an institutionalized policy; whether or not a detainee is tortured depends on a number of contingent factors, such as the value of the information he may give, the military situation of the conflict, the identity of his captors, etc.

80. According to government information, 51/ members of FMLN severely tortured a member of the armed forces, José Santos Monterrosa, on 7 May 1990 in the village of Jujutla, near Ahuachapán. The soldier was picked up while still alive and taken to a first-aid station.

D. Criminal justice

81. In the reports he has been submitting since 1981, the Special Representative has repeatedly voiced his concern at the unsatisfactory functioning of the Salvadorian criminal justice system as a whole, although he has acknowledged the difficulties that exist in this respect and the commendable independence of some judicial bodies. Their independence is not enough, however, to bring the overall situation of the criminal justice system up to the standards set forth in the current Constitution and in the international human rights instruments binding on the Republic of El Salvador.

82. In 1990, however, there were some interesting convictions handed down by the Salvadorian courts. In May 1990, a sergeant in the armed forces was convicted of killing a United States citizen, M.D. Kline, in October 1982. 52/ Another conviction was that handed down on 8 March 1990 by the Seventh Criminal Court against 26 members of a paramilitary group for the so-called "San Agustín massacre" on 4 March 1982, in which 10 children and 13 adults died. 53/ The Special Representative notes furthermore that, at Santa Ana Prison, he talked to political prisoners who had been members of the armed forces or the security forces: a former amy officer on trial for a kidnapping offence; a former member of the National Guard convicted of homicide; a former army sergeant on trial for homicide; and a former army officer convicted in May 1988 of human rights violations. The report submitted by the Supreme Court 54/ also refers to over 70 cases of proceedings brought against members of the armed forces and security forces. The alleged impunity of members of the army and the security forces is not, therefore, absolute.

83. While taking due note of the importance of the information given in the preceding paragraph, even though considerable time elapsed between the date of the offences and the date of the convictions, the Special Representative nevertheless feels bound to note the lack of progress in proceedings brought in many other cases of serious human rights violations. There has been no significant progress in the proceedings brought in connection with the assassination of Monsignor Romero in March 1980. 55/ In the trial for the murder of Herbert Amayo, committed on 26 October 1987, the senior criminal judge of San Salvador ordered a stay of proceedings against Jorge Alberto Miranda Arévalo, in custody since 23 December 1987. 56/ Mr. Miranda is still being held on a charge of acts of terrorism. 57/ The Attorney-General of the Republic informed the Special Representative that his Office had appealed against the stay of proceedings.

84. The Attorney-General also informed the Special Representative that an army major is involved in the proceedings brought for the mass execution of peasants in San Sebastián on 21 September 1988. The accused is to appear in court shortly, but a stay of proceedings was ordered for the other individuals awaiting trial with him. Although the Attorney-General appealed against this stay of proceedings, it was upheld by the higher court.

85. The Special Representative also learned that the proceedings brought in connection with the mass killing of members of FENESTRAS in late October 1989 have come to a virtual standstill at the investigation stage.

86. In his most recent report to the Commission on Human Rights, 58/ the Special Representative stated that the military personnel accused of the murder of Father Ignacio Ellacuría and others had been placed at the disposal of the Fourth Criminal Court of San Salvador, and said he trusted that the judicial proceedings would follow their normal course until a just and exemplary sentence was handed down. However, subsequent information on the progress of the trial does not indicate that any such result has been achieved as yet. Indeed, according to press reports, 59/ the book in which a record is kept of persons entering or leaving the Military College of El Salvador, regarded as important documentary evidence, was burnt, a circumstance acknowledged by the officer in charge of the record book. The lawyer defending this officer apparently explained that the document was of no importance and that its destruction was a routine matter. The College archivist, however, declared that record books were not routinely destroyed. During his stay in El Salvador, the Special Representative did not have time to make an exhaustive study of the proceedings brought for the murder of Father Ellacuría and others, but he wishes to draw attention to three very thorough and detailed reports on the case. The first is the interim report of the Special Task Force on El Salvador of the Speaker of the United States House of Representatives, the so-called "Moakley Report" of 30 April 1990, which voices serious and justified misgivings that military personnel senior to those currently on trial were involved in the crime. The second report is that of 27 July 1990 by the Lawyers Committee for Human Rights on the investigation into the murders of the Jesuits in El Salvador, which indirectly voices the same misgivings as the Moakley Report and also refers convincingly to the destruction of important evidence (burning of the Military College record book) and other serious obstructions to the proceedings which cannot in any way be attributed to the examining magistrate. The third report, dated 2 October 1990, again from the Lawyers Committee, contains an updated analysis of the proceedings and confirms the lack of co-operation by the armed forces. This being the case and noting that the examining magistrate is acting with the greatest courage, diligence and professionalism, the Special Representative cannot but express concern at the lack of progress in proceedings, which, as he said in his report to the Commission on Human Rights last year, 60/ are a test case for the credibility of efforts to bring about judicial reform in the country.

87. The Special Representative has learned that, on 7 December 1990, the examining magistrate in the case mentioned in the preceding paragraph decided to bring the case to trial in order that it might be tried by a court with a jury. 61/ Doubt remains whether only the defendants brought to trial took part in the perpetration of the murder or whether there are undisclosed principals of more senior rank. Legally speaking, it is not impossible to indict any such principals.

88. In his previous report to the Commission on Human Rights, 62/ the Special Representative referred to the death of two television technicians as a result of army fire on the day of the presidential elections. He has now heard that the soldier accused of one of these deaths has been cleared by a court with a jury. 63/

89. On 8 May 1990, the Eighth Criminal Court upheld the dismissal of proceedings against certain military personnel and civilians in cases of kidnapping. Proceedings are continuing, however, against other military personnel and civilians. 64/

90. The conclusion reached by the Special Representative after weighing the information reproduced in the preceding paragraphs is that, although the alleged impunity of members of the armed forces is not absolute, on the whole, the Salvadorian criminal justice system continues to function very unsatisfactorily, not only because of the absence of proper progress in the most important cases which are of interest internationally, but also because he has not heard of any sentences being handed down in many other cases of serious human rights violations recorded in the reports he has been submitting since 1981. An important clarification is necessary in this respect, however: shortcomings and deficiencies are much more prevalent in the investigation of facts than in the actual judicial activity of judges and courts, which have to pass sentence on the basis of facts established in an investigation that is notoriously inadequate. Moreover, investigations are not carried out by the judiciary, but by the "Criminal Investigation Commission", which answers to the executive branch. In this situation, the Special Representative cannot but echo the wishes of the Supreme Court of El Salvador that the investigation of offences should be brought under the direct responsibility of the judiciary, through the establishment of a judicial police force.

IV. RESPECT FOR INTERNATIONAL HUMANITARIAN LAW IN ARMED CONFLICTS

91. Legal Protection 65/ gives the following figures for persons killed by the army in military actions, it being impossible to determine the number of civilians and the number of guerrilla fighters:

Persons killed by the army in military actions, it being impossible to determine the number of civilians and the number of guerrilla fighters

(Source: Legal Protection)

	1989	1990
January	82	134
February	87	84
March	76	75
April	129	37
May	157	54
June	76	69
July	83	50
August	78	63
September	52	62
October	38	20
November	725	77
December	379	87
Total	1 962	812

92. The same source holds the army responsible for the following civilian deaths as a result of contact with explosive devices:

Civilian deaths as a result of contact with explosive devices planted by the army

(Source: Legal Protection)

	1989	1990
January	2	0
February	0	0
March	0	0
April	0	0
May	0	0
June	3	0
July	0	0
August	1	0
September	0	1
October	1	0
November	3	1
December	0	0
Total	10	2

93. The Special Representative received specific reports from various sources of attacks by the Salvadorian armed forces which resulted in civilian casualties and damage to civilian property. On 11 February 1990, the air force allegedly bombed and machine-gunned the resettled village of Corral de Piedra in Chalatenango, killing five civilans and wounding another 16. 66/ In San Salvador, the Special Representative heard testimony from relatives of the victims, who had witnessed the incident and confirmed the earlier account. When these allegations were reported to the Armed Forces General Staff, the Special Representative was told that FMLN had been responsible for involving the village in the fighting and that the Armed Forces High Command had acknowledged the mistake and offered compensation. Between 3 and 11 April, the armed forces allegedly destroyed the parish church and the homes of peasants in several villages in Chalatenango. 67/ On 16 May, the army is said to have fired mortar shells at the resettled village of Santa Marta in Cabañas Department, wounding two young people and destroying homes. 68/ On 25 May, the armed forces occupied a number of resettled villages in Chalatanango Department, destroying crops and livestock, but causing no civilian casualties. 69/ On 8, 9 and 11 June, military operations took place in other resettled villages, in the course of which the army arrested various people. 70/ On 28 July, the armed forces attacked the "Ignacio Ellacuría" community, but caused no civilian casualties. 71/ A subsequent communiqué of the Committee in Solidarity with the People of El Salvador 72/ describes other attacks by the armed forces on various villages in the Departments of Chalatenango, Usulután, Morazán, Cuscatlán and Cabañas. In some of these attacks, crops were burnt and other damage done. In the 25 July attack on the village of Tocotique in Morazán Department, two civilians are said to have been killed by army fire. According to other reports, 73/ two children died in the village of Los Prados in Chalatenango Department when the armed forces threw grenades at a house. Eyewitnesses confirmed these facts to the

Special Representative. It was also reported that, in the last few days of November 1990, the armed forces bombed and strafed various villages, 74/ causing some civilian casualties.

94. On the basis of the information given above and the questioning of some witnesses, the Special Representative concludes that the situation of the civilian population living in combat areas continues to be very dangerous, difficult and distressing. The Special Representative also believes that, in the course of fighting with FMLN, the armed forces occasionally kill and injure civilians, although not on any widespread or indiscriminate basis, but through negligence. It is difficult to determine exactly how many such deaths have occurred, but the number is definitely lower than last year. This conclusion is also borne out by completely trustworthy independent sources. The armed forces also cause damage to public and private property and to crops, although, after bitter fighting, it can be difficult to determine which side, the army or FMLN, caused the damage.

95. On 10 September 1990, a young Spanish doctor, Begoña García Arandigoyen, who was apparently providing medical care to FMLN combatants, was killed by army fire in the village of La Montañita in Santa Ana Department. The guerrilla organization maintains that she was capture alive and executed moments later. The army, on the other hand, alleges that the Spanish woman died in the course of long-range fighting. 75/ The Special Representative had the opportunity to examine the report of the autopsy performed in Spain 76/ which reveals that Begoña García was shot several times: once in the right cheek below the temple, once in the back of the neck, apparently from very close range, and also in the lower neck, the upper arms and the left thigh. The Armed Forces General Staff assured the Special Representative that the Spanish woman was a combatant because a paraffin test on her hands indicated that she had used weapons, but even so the Special Representative believes that the nature of the gunshot wound in the back of her neck could indicate that she was killed after being captured. In San Salvador, the General Staff showed the Special Representative some writings found in the young woman's clothing, which revealed in beautiful and heart-rending terms a profound disenchantment with her membership of FMLN and a passionate longing to return home. In any event, the Special Representative cannot but express his concern at this death and recall the obligations imposed by international humanitarian law to respect the life and physical integrity of capture medical personnel and combatants.

96. According to a FMLN communiqué, 77/ on 24 Octboer 1990, an armed forces unit raped and murdered Marlene Galdomez, a guerrilla fighter who had been captured earlier. The same source indicates that, on 2 November, armed forces units killed six wounded guerrillas and that, on 11 November, members of the armed forces executed four other wounded guerrillas. The incidents reported are said to have occurred after his visit to the country, but the Special Representative regrets that he was unable to conduct his own direct investigation of such serious accusations.

97. With regard to civilian casualties of guerrilla military actions, the Archdiocesan Legal Protection Office and the Salvadorian Human Rights Commission (governmental) give the following figures for deaths caused by contact with explosive devices planted by the guerrillas:

Civilian deaths caused by contact with explosive devices planted by the guerrillas

	(Source: Legal Protection)		(Source: Human Rights Commission (governmental))	
	1989	1990	1989	1990
January	2	0	9	6
February	4	0	5	1
March	0	0	11	2
April	1	0	14	2
May	17	1	22	7
June	0	1	5	3
July	0	1	0	3
August	0	0	0	3
September	0	0	1	-
October	0	1	3	-
November	2	0	17	-
December	0	0	1	-
Total	26	4	88	-

98. In addition, Legal Protection gives the following figures for civilian deaths caused by contact with explosive devices planted by persons unknown.

Civilian deaths caused by contact with explosive devices planted by persons unknown

(Source: Legal Protection)

	1989	1990
January	2	4
February	2	0
March	0	0
April	4	2
May	1	0
June	0	3
July	2	1
August	0	1
September	1	1
October	-	0
November	-	0
December	1	0
Total	13	12

99. The Salvadorian Human Rights Commission (governmental) gives the following figures for civilians injured by contact with explosive devices planted by FMLN organizations:

	1990
January	14
February	17
March	22
April	16
May	11
June	25
July	11
August	22

100. Guerrilla fire has, on occasion, caused other civilian casualties. One civilian died in the FMLN attack on CETIPOL forces at Santa Tecla in April 1990. The guerrilla organization took responsibility for and expressed regret at the killing in a public communiqué issued on 4 April 1990. Again, according to a communiqué issued by the Salvadorian Human Rights Commission (governmental) on 23 August 1990, FMLN attacked a military vehicle that was transporting wounded personnel, killing two people and seriously wounding several others. According to local press reports, 78/ when FMLN forces attacked the Armed Forces Communications Centre, near the Presidential Palace, on 20 August, they caused the death of a small boy, Juan Antonio Pérez Sánchez, and wounded four civilians, in addition to damaging private property. In a press release issued on 21 August 1990, FMLN admitted to having injured four people, but not to having killed the boy, and conceded that there had been a serious error in the operation. It seems, in fact, that the child did not die. 79/

101. According to Government reports, 80/ on 7 October 1990, a FMLN commando carried out an attack on Mariona Prison, causing, inter alia, the death of one civilian prisoner who was trying to escape. On 23 October 1990, FMLN launched an attack on the General Staff Headquarters in the capital city, using powerful bombs; two young children died in the attack and three other civilians were wounded. 81/ FMLN admitted responsibility for these incidents, which it attributes to "an accident in the handling of the mechanism which caused the premature explosion off target", stating that it "deeply regrets that there were innocent victims". 82/

102. The Special Representative has received other Government information 83/ reporting that FMLN killed 7 civilians and wounded 11 others during attacks carried out in November in Morazán and Chalatenango Departments; and that 6 civilians were wounded in the attack carried out on the same dates in Colonia Chintue in the village of Apopa. Since the above information relates to incidents which occurred after his visit to the country, the Special Representative has been unable to conduct his own direct investigation.

103. According to press reports, 84/ on one of the first few days of 1991, FMLN forces shot down a United States Army helicopter which was flying over Salvadorian territory. According to the Pentagon's version, the helicopter made a controlled landing and its occupants were killed by shots to the head. FMLN maintained that the bodies were found in the helicopter wreckage. On 8 January 1991, the Special Representative received a communiqué in which FMLN maintains that the shooting down of the helicopter was purely an act of self-defence and that, since there is sufficient evidence to assume that part of the crew could have been killed by one or more members of their military unit, two members of the unit were placed under preventive arrest on charges of suspected murder.

V. EFFORTS TO STRENGTHEN RESPECT FOR HUMAN RIGHTS AND THEIR RESULTS

104. The Special Representative wishes to note firstly that, as part of the current dialogue and negotiation process between the Government of El Salvador and FMLN, an "Agreement on Human Rights" was signed in San José, Costa Rica, on 26 July 1990. The preamble to the agreement, which is a political agreement, recalls that the legal system of El Salvador provides for the recognition of human rights and the duty of the State to respect and guarantee such rights; it also notes that the State has assumed international obligations with respect to human rights. It is interesting to note that the preamble indicates that FMLN has the capacity and the will and assumes the commitment to respect the inherent attributes of the human person. Under the agreement, the two Parties undertake to respect the most elementary rights of the individual. One very significant feature of the agreement is the establishment of an international verification procedure under the auspices of a United Nations mission whose director will be designated by the Secretary-General and which will take up its duties as of the cessation of the armed conflict. 85/ Later, however, the parties expressed the wish that the verification procedure should be established without waiting for a ceasefire (see report of the Secretary-General to the Security Council of 21 December 1990 (S/22031)). The action of the Mission does not preclude the application of other international procedures for the promotion of and respect for human rights. The Special Representative earnestly welcomes the signing of the Agreement, in which he places the highest hopes.

105. The Sub-Commission on Prevention of Discrimination and Protection of Minorities, in its resolution of August 1990, recommended that the Special Representative should devote particular attention to ascertaining whether the commitments made by the Parties in the San José Agreement referred to in the preceding paragraph have been honoured. As stated in the report submitted to the Special Representative by eight non-governmental organizations working in El Salvador, 86/ human rights violations have continued since the signing of the San José Agreement, although they have been fewer in number. More specifically, with regard to murders, those sources point out that, during the month preceding the signing of the Agreement, eight murders were attributed to the armed forces and one to FMLN, while there were none on either side in the following month. However, there were the same alarming numbers of murders by "persons unknown or civilians" and by "death squads". The number of disappearances attributed to the State reportedly decreased from six to three, while the number of abductions by FMLN dropped from five to none. The reporting organizations were uncertain whether this decrease in the number of violations was purely coincidental or whether it reflected measures taken by the Parties to prevent violations.

106. With regard to the situation as it stood after the submission of his report to the General Assembly, the Special Representative found that there continued to be a decline in the number of human rights violations committed in non-combat situations, with the exception of those committed by the so-called "death squads"; the same can unfortunately not be said of the violations which are committed during combat and whose number continues to be extremely high.

107. With specific reference to the efforts by the constitutional authorities of El Salvador to improve the human rights situation, the Special Representative wishes to recall the activities of the Salvadorian Human Rights Commission (governmental), whose work he praised in earlier reports. Witnesses presented by non-governmental humanitarian organizations told the Special Representative that the governmental Commission had investigated their cases and one witness claimed that he owed his freedom to the Commission's efforts. The Special Representative also wishes to note that, in July 1990, the Armed Forces General Staff established an office to handle complaints of human rights violations. 87/ Moreover, pursuant to the San José Agreement of July 1990, the Salvadorian armed forces have established various procedures governing arrest and the rights of detainees. The procedures provide that only in cases of flagrante delicto may an individual be arrested at any time without a warrant; otherwise, a person may be arrested only with the written authorization of the judicial authority and those carrying out the arrest must be wearing the required uniform and be able to supply proof of their status. Anyone arrested must be informed of the reasons for his arrest, have his rights explained to him and be permitted to communicate immediately with a defence lawyer. 88/

108. Furthermore, members of the armed forces and security forces continued to receive regular instruction on human rights and international humanitarian law applicable in armed conflicts.

109. The Special Representative must mention here the highly commendable work being done by the International Committee of the Red Cross (ICRC) in El Salvador to protect the victims of the conflict. This work, permitted by both parties, involves a number of specific activities, such as visits to persons detained for reasons related to the conflict, the restoration of family ties, protection of the civilian population, relief assistance, medical care and dissemination of the principles of international humanitarian law.

110. In the judicial sphere, the Special Representative was informed by the Supreme Court of Justice of the establishment of a prison oversight department, eight mobile auxiliary courts, a prisoner information centre, the National Council of the Judiciary and the Institute of Forensic Medicine. The Supreme Court also informed him that it planned to establish an investigative body answerable to the judiciary. The Special Representative welcomes these measures and sincerely hopes that they will all lead swiftly to the desired result: the prompt and effective administration of justice.

111. In addition, the Commission to amend Salvadorian Legislation (Comisión Revisora de la Legislación Salvadoreña - CORELESAL) continued its work of updating Salvadorian legislation 89/ Draft bills recently submitted to the Legislative Assembly include the following: draft bill amending the Penal Code, the Code of Criminal Procedure and the Military Justice Code (regulation of the death penalty, appeals for pardon, restriction of liberty, etc.); draft bill amending the Judicial Organization Act; and draft bill amending the Code of Criminal Procedure, the Traffic Accident Special Procedures Act, the Act organizing the Office of the Attorney-General and the Judicial Organization Act (dealing with the rules governing legal aid and defence).

112. To sum up, the Special Representative takes note of the continuing, obvious efforts by the President of the Republic and other Salvadorian constitution authorities to improve the human rights situation in El Salvador. However, while those efforts have led to a decrease in the number of serious violations of human rights, particularly since the signing of the San José Agreement on 26 July, it is an undeniable and disturbing fact that violations continue. The situation is far from satisfactory.

113. With to FMLN which, according to the San José Agreement of 26 July 1990, has the capacity and has the will to respect human rights, it should be noted that it declared a unilateral cease-fire on 24 and 25 February on the occasion of the death of the late President Duarte. 90/ It also should be noted that, on 13 March 1990, the FMLN General Command decided that, as of 16 March, it would totally suspend acts of sabotage against public transport, commercial establishments and telephone lines and attacks on Government officials and civilians who are not members of military or paramilitary groups belonging to the armed forces of El Salvador. 91/ The extent to which FLMN has complied with the San José Agreement was discussed in an earlier paragraph.

114. The Special Representative was informed that FMLN has on a number of occasions released soldiers captured in combat: one colonel and eight soldiers on 11 July; 92/ one sergeant and two wounded soldiers on 6 August; 93/ and five soldiers on 24 August. 94/

VI. CONCLUSIONS

115. After carefully assessing the information included in this report on the situation of human rights in El Salvador in 1990, the Special Representative draws the following conclusions:

Economic, social and cultural rights

116. The situation regarding the economic, social and cultural rights of Salvadorian citizens continues to be adversely affected by a combination of factors, principally the persistence and occasional upsurge of the armed conflict be een the armed forces and FMLN and the resultant climate of violence created by the fighting.

117. The attacks carried out by the FMLN guerrilla organizations against the country's economic infrastructure also seriously undermine the present and future enjoyment by Salvadorian citizens of important economic, social and cultural rights, although note must be taken of the fact that, on 16 March 1990, FMLN suspended its acts of sabotage against public transport and telephone lines, although there is news that such acts were committed in the course of November.

118. Government action against humanitarian, trade union, peasants and other organizations continued in 1990. The Government maintains that some of these organizations answer to FMLN, an allegation which the organizations concerned refute, but even if this were true, it would only justify action that remained within the law and respected human rights.

Summary executions

119. Members of the State apparatus, particularly of the armed forces, security forces and civil defence, carried out politically motivated summary executions the exact number of which, although difficult to determine, is much lower than the very high levels of 1989. There was a perceptible reduction after the signing of the San José Agreement on Human Rights on 26 July 1990. One fact worth noting is the climate of intimidation prevailing among certain sectors of the population as a result of explicit threats of summary executions and other human rights violations.

120. Many sources continue to attribute summary executions and other human rights violations to the so-called "death squads" allegedly linked to or tolerated by the armed forces or the security forces. The Special Representative finds the allegation plausible in theory, although the difficulties of investigating such crimes prevent him from reaching reliable and definite conclusions in specific cases. It is also possible that ordinary offences are being committed under cover of these activities.

121. FMLN, for its part, continued to carry out summary executions of army chiefs and officers and persons alleged to have collaborated with the armed forces, although it appears to have suspended the practice after the signing of the San José Agreement. It also carried out some urban operations in which civilians were killed and wounded.

Abductions and disappearances

122. Cases of politically motivated disappearances of individuals continued to be reported. While it is difficult to determine how many there were and who was responsible, the Special Representative does not rule out the possibility that the "death squads" were involved in some cases.

123. The guerrilla organizations also abducted civilians. The Special Representative received reports of the forcible recruitment of minors, which the guerrilla organization vigorously denied.

Treatment of political prisoners

124. There were cases of torture and cruel, inhuman or degrading treatment during extrajudicial interrogations of political detainees, although the Special Representative believes that these practices are not widespread and do not represent a Government policy.

Criminal justice

125. In 1990, some members of the armed forces were convicted for acts committed years ago, which shows that impunity is not absolute. Nevertheless, other proceedings instituted against members of the armed forces are moving very slowly and, in the proceedings concerning the murder of Father Ellacuría and others, there seems to be a lack of co-operation on the part of the armed forces, which has gone so far as the destruction of important evidence. The Special Representative is also unaware of any progress in the proceedings on the many serious human rights violations committed in past years. In

conclusion, it may be said that Salvadorian criminal justice is still not operating satisfactorily, although the main defects are to be seen in the area of investigation and fact-finding rather than in the trial and sentencing activities per se of judicial organs.

The armed conflict

126. The situation of the civilian population in the areas of heaviest fighting is very difficult and distressing and the military operations of the armed forces have also caused local civilian casualties, although only through negligence, not on a widespread, indiscriminate or intentional basis. The exact number of such deaths is difficult to determine, although it was lower than in 1989.

127. The Special Representative received information about wounded guerrillas being killed by members of the armed forces.

128. FMLN, for its part, caused civilian deaths or injuries from contact mines, although it can sometimes be difficult to determine whether FMLN organizations or the armed forces planted the devices. Guerrilla fire occasionally caused other civilian casualties.

Efforts to strengthen respect for human rights and their results

129. There can be no doubt as to the determination of the President of the Republic and other Salvadorian constitutional authorities to improve the human rights situation. Although this occasioned a decrease in the number of serious violations of those rights, particularly after the signing of the San José Agreement on 26 July 1990, it is a nevertheless indisputable fact that such violations continued.

130. FMLN too has shown an interest in respect for human rights, but this has not prevented it from committing serious violations of those rights, although on a lesser scale than in 1989. One example of this interest was the signing of the San José Agreement as part of the negotiating process with the Government.

131. The Government and FMLN have resumed and intensified the negotiating process, under the auspices of the Secretary-General of the United Nations, with a view to ending the conflict.

VII. RECOMMENDATIONS

132. The Special Representative continues to be disturbed by the situation of human rights in El Salvador, despite the fact that, in 1990, there was a decrease in the number of violations as compared with 1989. He therefore once again appeals most emphatically to the Government and all the country's political authorities, institutions and forces, including the guerrilla organizations, to take all necessary steps immediately to put a complete end to attempts on the life, physical integrity and dignity of individuals in both non-combat and combat situations.

133. The Special Representative also calls most emphatically on the Government and FMLN to show political realism, imagination and generosity towards the Salvadorian people in the current negotiating process, so that a just and lasting peace can be achived as soon as possible, followed by national reconciliation and reconstruction. The Special Representative believes that a reduction of violence in combat and non-combat situations will help to promote mutual confidence building, thereby facilitating an early, successful outcome to the current negotiations.

134. The Special Representative particularly reiterates to the constitutional authorities of the Republic of El Salvador the recommendations made in his previous report to the Commission on Human Rights 95/ and specifically:

(a) The adoption of measures to prevent any kind of threats and psychological intimidation against certain sectors of the population;

(b) Perseverance with the judical reform effort and the establishment of an efficient criminal investigation body under the judiciary;

(c) Acceleration of the judicial proceedings instituted for the massacres committed in the last quarter of 1989, with a view to arriving, as soon as possible, at fair and exemplary final judgements;

(d) Perseverance in carrying out the agrarian reform programme and other structural reforms needed to improve the population's well-being.

135. The Special Representative reiterates to FMLN and guerrilla organizations the recommendations made in his previous report to the Commission on Human Rights 96/ and specifically:

(a) Resolute continuation of their policy of not attacking the transport and communications system and of not planting contact mines which may cause casualties among the civilian population;

(b) That they immediately refrain from all urban operations which may cause civilian casualties.

136. Lastly, the Special Representative again recommends to all States of the international community, in particular the richest and most developed countries, that they increase the assistance necessary to alleviate and improve the situation of Salvadorian citizens who have been displaced, made refugees or resettled as a result of the armed conflict.

Notes

1/ El País, 3 February 1990.

2/ Le Monde, 2 February 1990.

3/ El País, 11 February 1990.

4/ Official communiqué of FMLN, 13 March 1990.

5/ Le Monde, 27 June 1990.

6/ Inforpress Centroamericana, 5 July 1990.

7/ El Salvador on Line, 16 April 1990.

8/ Ibid., 11 June 1990.

9/ Ibid., 3 September 1990.

10/ Ibid., 2 April 1990.

11/ Ibid., 14 May 1990.

12/ Ibid., 5 February 1990.

13/ Ibid., 28 May 1990.

14/ Ibid., 11 June 1990.

15/ Department of Human Rights of the Salvadorian Lutheran Synod, November 1989 to September 1990.

16/ Report of the Armed Forces of El Salvador on human rights for the period October 1989 to September 1990.

17/ El Salvador on Line, 9 July 1990.

18/ Ibid., 23 April 1990.

19/ Ibid., 14 May 1990.

20/ Communiqué of the Committee in Solidarity with the People of El Salvador (CISPES), 16 August 1990.

21/ La Prensa Gráfica, 5 July 1990.

22/ Boletín de prensa, No. 162, 16 June 1990.

23/ El Salvador on Line, 6 August 1990.

24/ Ibid., 20 August 1990.

25/ Ibid., 12 November 1990.

26/ Boletín de prensa, 12 November 1990.

27/ Ibid., No. 436, 28 November 1990.

28/ Archdiocesan Legal Protection Office weekly bulletins.

29/ El Salvador on Line, 12 March 1990.

30/ Ecumenical Christian Support Group for El Salvador, 10 February 1990.

31/ El Salvador on Line, 19 March 1990.

32/ Ibid., 26 March 1990.

33/ Ibid., 9 July 1990.

34/ Ibid., 29 October 1990.

35/ Ibid., 19 November 1990.

36/ El Mundo, 21 July 1990.

37/ La Prensa Gráfica. El Diario de Hoy, 1 May 1990.

38/ Communiqué to the Special Representative, 23 May 1990.

39/ El Diario de Hoy, 19 June 1990.

40/ El Salvador on Line, 23 July 1990.

41/ Communiqué of the Salvadorian Human Rights Commission (governmental), 25 July 1990.

42/ El Diario de Hoy, 31 July 1990.

43/ La Prensa Gráfica, 31 July 1990.

44/ Communiqué, 3 July 1990.

45/ Salpress, 28 June 1990.

46/ Boletín de prensa, No. 113, 29 October 1990.

47/ Communiqué of the Permanent Mission of El Salvador to the United Nations and the International Organizations at Geneva, 2 April 1990.

48/ Communiqué of the Permanent Mission of El Salvador to the United Nations and the International Organizations at Geneva, 17 July 1990.

49/ See also Estudios Centroamericanos, June-July 1990.

50/ El Diario de Hoy, 29 June 1990.

51/ Communiqué of the Permanent Mission of El Salvador to the United Nations and the International Organizations at Geneva, 28 June 1990.

52/ El Salvador on Line, 14 May 1990.

53/ Salpress, telex, 9 March 1990.

54/ Memorandum concerning the work of the Supreme Court of Justice on the safeguarding, protection and development of human rights during the period 12 October 1989 to 4 October 1990.

55/ See Lawyers Committee for Human Rights, A Decade of Failed Promises: the Investigation of Archbishop Romero's Murder, March 1990.

56/ El Salvador on Line, 23 April 1990.

57/ La Prensa Gráfica, 19 April 1990.

58/ E/CN.4/1990/26, para. 77.

59/ El Salvador on Line, 7 March 1990; ibid., 4 June 1990.

60/ E/CN.4/1990/26, para. 45.

61/ El Diario de Hoy, 12 December 1990.

62/ E/CN.4/1990/26, para. 4.

63/ Diario Latino, 7 June 1990.

64/ Ibid., 2 May 1990.

65/ Archdiocesan Legal Protection Office weekly bulletins.

66/ El Salvador-Proceso, 28 February 1990; report of 12 February 1990.

67/ El Salvador on Line, 16 April 1990.

68/ Ibid., 21 May 1990.

69/ Ibid., 4 June 1990.

70/ Ibid., 18 June 1990.

71/ Ibid., 6 August 1990.

72/ CISPES, 23 August 1990.

73/ El Salvador on Line, 17 September 1990.

74/ Ibid., 3 December 1990.

75/ Ibid., 17 September 1990.

76/ Document of the Hospital de Navarra, Pamplona, 22 September 1990.

77/ El Salvador, 14 November 1990; El Salvador on Line, 3 December 1990; letter dated 16 November 1990 addressed to the Special Representative by International Educational Development.

78/ El Diario de Hoy, 22 August 1990.

79/ Statements by Monsignor Rosa Chávez, 26 August 1990.

80/ Communiqué of the Permanent Mission of El Salvador to the United Nations and the International Organizations at Geneva, 15 October 1990.

81/ Communiqué of the Salvadorian Human Rights Commission (governmental), 24 October 1990.

82/ Communiqué issued in El Salvador, 31 October 1990.

83/ Boletín de prensa, No. 334, 20 November 1990.

84/ International Herald Tribune, 4 January 1991.

85/ See the Agreement in United Nations Press Release, 30 July 1990 (CA/33).

86/ Report of 1 October 1990 presented by the Office of Associated Lawyers; Study Centre for Law Enforcement; Human Rights Commission of El Salvador (non-governmental); Department of Human Rights of the Salvadorian Lutheran Synod; Department of Human Rights of the Rural Workers' National Union; Human Rights Institute of the Central American University; Christian Legal Aid; and Institute of Legal Studies of El Salvador.

87/ Communiqué of the Permament Mission of El Salvador to the United Nations and the International Organizations at Geneva, 11 July 1990.

88/ Communiqué of the Permanent Mission of El Salvador to the United Nations and the International Organizations at Geneva, 13 August 1990.

89/ Report presented to the Special Representative on 5 October 1990.

90/ El Salvador on Line, 26 February 1990.

91/ Official communiqué of FMLN, 13 March 1990.

92/ El Salvador on Line, 16 July 1990.

93/ Public communiqué of FMLN, 23 August 1990.

94/ El Salvador on Line, 3 September 1990.

95/ E/CN.4/1990/26, para. 126.

96/ Ibid., para. 127.